

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In re SUBPOENAS OF GRAPECITY, INC.,  
DEVINDER SINGH, AND SANJEEV  
JAGTAP

No. C05-1281L

ORDER QUASHING SUBPOENA

[This action relates to XPAN, LLC v.  
Computer Task Group, Inc., No. 5:03-CV-225,  
N.D. Ohio]

The plaintiff in the underlying matter, XPAN, LLC, obtained a subpoena from the Western District of Washington, dated June 30, 2005, commanding third-party witness Devinder Singh to appear for deposition. Mr. Singh objects to the deposition on the grounds that (1) he was already deposed in the underlying matter and (2) the parties had agreed, prior to Mr. Singh's first deposition, that he would not be deposed again unless he agreed to serve as XPAN's expert witness, in which case he could be deposed regarding his expert opinions.

Pursuant to Fed. R. Civ. P. 30(a)(2)(B), a party must obtain leave of court in order to depose a witness for a second time. XPAN argues that leave to take a second deposition should be granted because it did not know, at the time the first deposition was taken, that Mr. Singh would decline to act as its expert at trial and that it would need to perpetuate his testimony through deposition. Under the balancing test of Fed. R. Civ. P. 26(b)(2), the Court should consider whether the second deposition would be unreasonably cumulative, duplicative, or burdensome, whether the party seeking the deposition "has had ample opportunity by discovery in the action to obtain the information sought," and whether the burden/expense of the second

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For all of the foregoing reasons, Devinder Singh's motion to quash is GRANTED and the subpoena served on Mr. Singh for an August 2, 2005, deposition is hereby QUASHED.

DATED this 28th day of July, 2005.

Mr S Casnik

Robert S. Lasnik,  
United States District Judge

<sup>1</sup> The Court has considered Devinder Singh’s “Supplemental Brief in Support of Motion to Quash Subpoena.” Dkt. # 15-17.